

DEPARTMENT OF COMMERCE

CHAPTER 39

BOARD OF OUTFITTERS

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Sub-Chapter 1

Organizational Rule

8.39.101 BOARD ORGANIZATION (1) The board of outfitters hereby adopts and incorporates the organizational rules of the

department of commerce listed at chapter 1 of this title of the Administrative Rules of Montana.

(2) It is the policy, intent, and purpose of the board of outfitters to provide quality regulatory functions and services to the profession it regulates and the public in order to promote, maintain, and preserve an ever-improving high degree of competence in the profession, satisfaction in the public, and an everlasting environment in which the profession operates. (History: Sec. 2-4-201, MCA; IMP, Sec. 2-4-201, MCA; NEW, 1988 MAR p. 46, Eff. 1/15/88; AMD, 1988 MAR p. 1666, Eff. 7/29/88.)

Sub-Chapter 2

Procedural Rules

8.39.201 PROCEDURAL RULES (1) The board of outfitters hereby adopts and incorporates the procedural rules of the department of commerce as listed in chapter 2 of this title of the Administrative Rules of Montana. (History: Sec. 2-4-201, 37-47-201, MCA; IMP, Sec. 2-4-201, 37-47-201, MCA; NEW, 1988 MAR p. 46, Eff. 1/15/88; AMD, 1988 MAR p. 1666, Eff. 7/29/88.)

8.39.202 PUBLIC PARTICIPATION RULES (1) The board of outfitters hereby adopts and incorporates the citizen participation rules of the department of commerce as listed in chapter 2 of this title of the Administrative Rules of Montana.

(2) Dates, times, and places for meetings and other activities of the board of outfitters may be obtained by contacting the board office.

(3) Communications to the board of outfitters may be made to: Board of Outfitters, Department of Commerce, State of Montana, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0513.

(4) In addition to any other means provided by law or rule, a person wanting to receive notice of board activities of significant interest to that person may contact the board office, in writing, and request that his or her name, address, and phone number be placed on the board's "mailing list" and designate those activities of interest. The request shall be effective until January 1 of the following year, at which time it may be renewed by written request annually. (History: Sec. 2-3-103, 37-47-201, MCA; IMP, Sec. 2-3-103, 37-47-201, MCA; NEW, 1988 MAR p. 46, Eff. 1/15/88; AMD, 1988 MAR p. 1666, Eff. 7/29/88; AMD, 1996 MAR p. 668, Eff. 3/8/96.)

Sub-Chapter 3 reserved

Sub-Chapter 4

Outfitters and Guides Regulations

8.39.401 OUTFITTER LICENSES is hereby repealed. (History: Sec. 87-4-106, 37-47-201, MCA; IMP, Sec. 87-4-103, 87-4-163, 37-47-201, 37-47-301, 37-47-308, MCA; Eff. 12/31/72; AMD, 1982 MAR p. 2019, Eff. 11/11/82; TRANS, from Dept. of FWP,

C. 528, L. 1987, Eff. 10/1/87; REP, 1988 MAR p. 1666, Eff. 7/29/88.)

8.39.402 OUTFITTER STANDARDS is hereby repealed. (History: Sec. 87-4-106, 37-47-201, MCA; IMP, Sec. 87-4-127, 87-4-122, 87-4-125, 37-47-302, 37-47-305, MCA; Eff. 12/31/72; AMD, 1982 MAR p. 2019, Eff. 11/11/82; AMD, 1985 MAR p. 778, Eff. 6/28/85; TRANS, from Dept. of FWP, C. 528, L. 1987, Eff. 10/1/87; AMD, 1988 MAR p. 46, Eff. 1/15/88; REP, 1988 MAR p. 1666, Eff. 7/29/88.)

8.39.403 OUTFITTER EQUIPMENT AND SUPPLIES is hereby repealed. (History: Sec. 87-4-106, 37-47-201, MCA; IMP, Sec. 87-4-103, 87-4-163, 37-47-201, 37-47-302, 37-47-304, MCA; Eff. 12/31/72; AMD, 1982 MAR p. 2019, Eff. 11/11/82; TRANS, from Dept. of FWP, C. 528, L. 1987, Eff. 10/1/87; AMD, 1988 MAR p. 46, Eff. 1/15/88; REP, 1988 MAR p. 1666, Eff. 7/29/88.)

8.39.404 SANITATION AND LIVESTOCK is hereby repealed. (History: Sec. 87-4-106, 37-47-201, MCA; IMP, Sec. 87-4-103, 87-4-163, 37-47-201, 37-47-301, 37-47-302, 37-47-402, MCA; Eff. 12/31/72; AMD, 1982 MAR p. 2019, Eff. 11/11/82; TRANS, from Dept. of FWP, C. 528, L. 1987, Eff. 10/1/87; REP, 1988 MAR p. 1666, Eff. 7/29/88.)

8.39.405 RATE SCHEDULE is hereby repealed. (History: Sec. 87-4-106, 37-47-201, MCA; IMP, Sec. 87-4-103, 87-4-163, 37-47-201, MCA; Eff. 12/31/72; AMD, 1982 MAR p. 2019, Eff. 11/11/82; TRANS, from Dept. of FWP, C. 528, L. 1987, Eff. 10/1/87; REP, 1988 MAR p. 1666, Eff. 7/29/88.)

8.39.406 CAMP RESTRICTIONS is hereby repealed. (History: Sec. 87-4-106, 37-47-201, MCA; IMP, Sec. 84-4-103, 87-4-163, 37-47-201, MCA; Eff. 12/31/72; AMD, 1982 MAR p. 2019, Eff. 11/11/82; TRANS, from Dept. of FWP, C. 528, L. 1987, Eff. 10/1/87; REP, 1988 MAR p. 1666, Eff. 7/29/88.)

8.39.407 PROTECTION OF PRIVATE PROPERTY is hereby repealed. (History: Sec. 87-4-106, 37-47-201, MCA; IMP, 87-4-103, 87-4-163, 37-47-201, MCA; Eff. 12/31/72; AMD, 1982 MAR p. 2019, Eff. 11/11/82; TRANS, from Dept. of FWP, C. 528, L. 1987, Eff. 10/1/87; REP, 1988 MAR p. 1666, Eff. 7/29/88.)

8.39.408 RECORDS is hereby repealed. (History: Sec. 87-4-106, 37-47-201, MCA; IMP, Sec. 87-4-103, 87-4-163, 37-47-301, MCA; Eff. 12/31/72; AMD, Eff. 4/5/76; AMD, 1982 MAR p. 2019, Eff. 11/11/82; TRANS, from Dept. of FWP, C. 528, L. 1987, Eff. 10/1/87; AMD, 1988 MAR p. 46, Eff. 1/15/88; REP, 1988 MAR p. 1666, Eff. 7/29/88.)

8.39.409 EXPERIENCE STANDARDS is hereby repealed. (History: Sec. 87-4-106, 37-47-201, MCA; IMP, Sec. 87-4-103, 87-4-163, 37-47-201, 37-47-302, MCA; Eff. 12/31/72; AMD, Eff. 4/5/76; AMD, 1982 MAR p. 2019, Eff. 11/11/82; TRANS, from Dept. of FWP, C. 528, L. 1987, Eff. 10/1/87; REP, 1988 MAR p. 1666, Eff. 7/29/88.)

8.39.410 RESIDENCY AND AGE REQUIREMENTS is hereby repealed. (History: Sec. 87-4-106, MCA; IMP, Sec. 87-4-106, MCA; Eff. 12/31/72; 8/5/74; AMD, 1978 MAR p. 1313, Eff. 8/25/78; REP, 1982 MAR p. 2023, Eff. 11/11/82; TRANS, from Dept. of FWP, C. 528, L. 1987, Eff. 10/1/87; REP, 1988 MAR p. 1666, Eff. 7/29/88.)

8.39.411 HUNTING AND FISHING LICENSE is hereby repealed. (History: Sec. 87-4-106, 37-47-201, MCA; IMP, Sec. 87-4-103, 87-4-163, 37-47-201, 37-47-301, MCA; Eff. 12/31/72; AMD, Eff. 4/5/76; AMD, Eff. 6/5/76; AMD, Eff. 10/5/76; AMD, 1982 MAR p. 2019, Eff. 11/11/82, TRANS, from Dept. of FWP, C. 528, L. 1987, Eff. 10/1/87; REP, 1988 MAR p. 1666, Eff. 7/29/88.)

8.39.412 LICENSING OF GUIDES AND ENFORCEMENT OF GUIDE LICENSE is hereby repealed. (History: Sec. 87-4-106, 37-47-201, MCA; IMP, Sec. 87-4-103, 87-4-163, 37-47-304, 37-47-307, 37-47-309, MCA; Eff. 12/31/72; AMD, 1982 MAR p. 2019, Eff. 11/11/82; AMD, 1985 MAR p. 778, Eff. 6/28/85; TRANS, from Dept. of FWP, C. 528, L. 1987, Eff. 10/1/87; AMD, 1988 MAR p. 46, Eff. 1/15/88; REP, 1988 MAR p. 1666, Eff. 7/29/88.)

8.39.413 LICENSE REVOCATION is hereby repealed. (History: Sec. 87-4-106, 37-47-201, MCA; IMP, Sec. 87-4-103, 87-4-163, 37-47-341, MCA; AMD, 1982 MAR p. 2019, Eff. 11/11/82; TRANS, from Dept. of FWP, C. 528, L. 1987, Eff. 10/1/87; AMD, 1988 MAR p. 47, Eff. 1/15/88; REP, 1988 MAR p. 1666, Eff. 7/29/88.)

8.39.414 LICENSE RENEWAL is hereby repealed. (History: Sec. 87-4-106, 37-47-201, MCA; IMP, Sec. 87-4-103, 87-4-163, 37-47-307, 37-47-308, 37-47-312, MCA; NEW, 1982 MAR p. 2019, Eff. 11/11/82; TRANS, from Dept. of FWP, C. 528, L. 1987, Eff. 10/1/87; REP, 1988 MAR p. 1666, Eff. 7/29/88.)

8.39.415 OUTFITTER EXAMINATION is hereby repealed. (History: Sec. 37-47-201, 87-4-106, MCA; IMP, Sec. 37-47-201, 37-47-305, 87-4-106, MCA; NEW, 1983 MAR p. 654, Eff. 6/17/83; TRANS, from Dept. of FWP, C. 528, L. 1987, Eff. 10/1/87; REP, 1988 MAR p. 1666, Eff. 7/29/88.)

8.39.416 OUTFITTER AND PROFESSIONAL GUIDES LICENSE FEES is hereby repealed. (History: Sec. 37-47-201, 87-4-127, MCA; IMP, Sec. 37-47-306, 87-4-127, MCA; NEW, 1984 MAR p. 246, Eff. 1/27/84; TRANS, from Dept. of FWP, C. 528, L. 1987, Eff. 10/1/87; REP, 1988 MAR p. 1666, Eff. 7/29/88.)

8.39.417 DEFINITION OF HUNTING SUCCESS FOR ADVERTISING is hereby repealed. (History: Sec. 37-47-201, 87-4-122, MCA; IMP, Sec. 37-47-201, 37-47-301, 37-47-302, 87-4-122, 87-4-141, MCA; NEW, 1985 MAR p. 778, Eff. 6/28/85; TRANS, from Dept. of FWP, C. 528, L. 1987, Eff. 10/1/87; AMD, 1988 MAR p. 46, Eff. 1/15/88; REP, 1988 MAR p. 1666, Eff. 7/29/88.)

8.39.418 INSPECTION (1) Inspections of outfitter, guide and professional guide operations may be made by a representative of the board at all reasonable times. The purpose of the inspection is to periodically examine the premises, equipment and/or procedures of a licensed individual to determine whether the individual's practice is being conducted in a manner consistent with the laws and rules of the board, and the public health, safety and welfare. (History: Sec. 37-47-201, MCA; IMP, Sec. 37-47-301, 37-47-302, MCA; NEW, 1996 MAR p. 668, Eff. 3/8/96.)

8.39.419 WATERCRAFT IDENTIFICATION (1) A person holding a valid outfitter, professional guide or guide license who utilizes any type of watercraft while providing services shall prove evidence of licensure by displaying a Montana board of outfitters issued license tag on each watercraft to be occupied by the licensee.

(2) The tag shall display the outfitter, professional guide or guide license number for identification purposes.

(3) The tag shall be effective for one calendar year.

(4) The tag shall be affixed to either side of the bow or at the oarlock or stern of the watercraft and be of a size so that it may be easily seen from another watercraft or from shore.

(5) The tag shall be affixed to the watercraft on a removable plaque or in such a way that if the craft is sold or is not being used by the licensee while the licensee is providing services, the tag may be removed or concealed to prevent misidentification of the occupant(s) as licensees.

(6) This rule shall be effective commencing with the 1998 licensing year. Licensees, depending on watercraft ownership, shall apply for sufficient tags to identify all watercraft they may utilize to provide services. Tag requests shall be made as part of the annual license and renewal applications starting with 1998 applications.

(7) The following uses of this license tag shall be misconduct under ARM 8.39.709:

(a) failure to display license tags by any licensee while providing services;

(b) display of counterfeit license tags or license numbers;

(c) offering for use by an unlicensed individual any license tag identifying another licensee as the occupant of the watercraft. (History: Sec. 37-47-201, MCA; IMP, Sec. 37-47-201, 37-47-302, 37-47-304, MCA; NEW, 1998 MAR p. 740, Eff. 3/27/98.)

Sub-Chapter 5

Substantive Rules--Licensure

8.39.501 LICENSURE--OUTFITTER LICENSES (1) An outfitter license shall be issued to an applicant who has demonstrated to the board that he or she has:

(a) met the qualifications to provide those services of an outfitter indicated on the license application;

(b) successfully passed the required examination pertaining to those functions; and,

(c) filed an operations plan that has been approved by the board.

(2) The license issued shall designate, and thereby authorize the outfitter to conduct those functions of an outfitter that the applicant has qualified for. Functions of an outfitter to be indicated on the license application and license issued, if qualified for, shall be one or more of the following:

(a) hunting services (big game);

(b) hunting services, upland game birds, waterfowl and turkey;

(c) fishing services; or

(d) if applicable to the services provided in (2)(a) through (c) above and qualified for, one or more of the following:

(i) saddle or pack animal,

(ii) personal guiding services,

(iii) camping equipment,

(iv) transportation (vehicles or other conveyance),

(v) boat or other floating craft, or

(vi) lodging. (History: Sec. 37-1-131, 37-47-201, MCA; IMP, Sec. 37-47-101, 37-47-201, 37-47-301, 37-47-302, 37-47-307, 37-47-308, MCA; NEW, 1988 MAR p. 1666, Eff. 7/29/88; AMD, 2000 MAR p. 730, Eff. 3/17/00.)

8.39.502 LICENSURE--OUTFITTER QUALIFICATIONS (1) In addition to meeting all of the qualifications contained in 37-47-302, MCA, outfitter qualifications, each applicant for an outfitter license shall:

(a) have 100 days of verified experience as a licensed outfitter in another state or a licensed guide or professional guide working for a licensed outfitter in this state, guiding clients in pursuing the types of game and using methods for which licensure is sought by the applicant; and,

(b) be qualified to provide all services and use all equipment necessary to provide the functions of an outfitter that his or her license will authorize him or her to conduct.

(2) For purposes of this rule, verified experience includes:

(a) affidavit by the outfitter verifying the guiding experience claimed by the applicant;

(b) client logs submitted by the applicant, signed by the sponsoring outfitter for whom services were provided;

(c) outfitter log book entries; or

(d) sources of information with board acceptable guarantees of reliability which may include, but are not limited to, park service records, client affidavits or letters.

(3) The experience required in this part shall be in the field pertaining to the license function applied for.

(4) Three days of experience may be waived by the board for an applicant for every day of training completed by the applicant in the category of licensure applied for (fishing or hunting), subject to a maximum waiver of 30 days, at an outfitter or guide school approved by the board. (History:

Sec. 37-1-131, 37-47-201, MCA; IMP, Sec. 37-47-201, 37-47-302, 37-47-304, 37-47-307, 37-47-308, MCA; NEW, 1988 MAR p. 1666, Eff. 7/29/88; AMD, 1991 MAR p. 999, Eff. 6/28/91; AMD, 1992 MAR p. 2376, Eff. 10/30/92; AMD, 1996 MAR p. 668, Eff. 3/8/96; AMD, 2000 MAR p. 730, Eff. 3/17/00.)

8.39.503 LICENSURE--OUTFITTER EXAMINATION

(1) Application to take the outfitter examination shall be by completed license application accompanied by the required fee no later than 30 days prior to the examination date.

(2) The examination shall be given in Helena, Montana, on the second Tuesday of January, April, July, and October of each year.

(3) The general examination categories will be:

(a) hunting;

(b) bird hunting;

(c) fishing;

(d) watercraft used for fishing or hunting;

(e) packing; and

(f) waterfowl. This list is not intended to be exhaustive in detail. A wide range of issues and sub-topics exist within each broad topic.

(4) An applicant who has failed the examination shall be eligible to take the next scheduled examination, after submitting an updated application and new examination fee.

(5) An applicant who fails the written examination may, within 15 days of notification of failure, review his or her examination at the board office. During this review, the applicant may review only questions answered incorrectly. Correct answers to those questions will be furnished to the applicant. No representative of the board shall discuss the substance of the examination with the applicant. The applicant will not be allowed to record any information from examination during the review. (History: Sec. 37-1-131, 37-47-201, MCA; IMP, Sec. 37-47-201, 37-47-305, MCA; NEW, 1988 MAR p. 1666, Eff. 7/29/88; AMD, 1991 MAR p. 999, Eff. 6/28/91; AMD, 1993 MAR p. 343, Eff. 3/12/93; AMD, 2000 MAR p. 730, Eff. 3/17/00.)

8.39.504 LICENSURE--APPROVED OUTFITTER OPERATIONS PLAN is hereby repealed. (History: Sec. 37-1-131, 37-47-201, MCA; IMP, Sec. 37-47-201, 37-47-301, 37-47-302, 37-47-304, 37-47-307, 37-47-308, MCA; NEW, 1988 MAR p. 1666, Eff. 7/29/88; AMD, 1989 MAR p. 1192, Eff. 8/18/89; AMD, 1994 MAR p. 155, Eff. 1/28/94; REP, 1996 MAR p. 668, Eff. 3/8/96.)

8.39.505 LICENSURE--OUTFITTER APPLICATION

(1) Application for an outfitter license shall be on a form provided by the board and shall be accompanied by the required fee.

(2) Application shall be in two parts:

(a) a license application form which shall require information the board needs in order to determine the basic abilities and qualifications of the applicant and to verify those functions of an outfitter the applicant is applying for; and

(b) an operations plan application form which shall be

considered under the guidelines of 37-47-304(2), MCA, and ARM 8.39.804.

(3) An applicant who receives approval of his or her proposed operations plan and license application may then take, and must pass, the licensing examination prior to licensure. (History: Sec. 37-1-131, 37-47-201, MCA; IMP, Sec. 37-47-201, 37-47-304, 37-47-307, MCA; NEW, 1988 MAR p. 1666, Eff. 7/29/88; AMD, 1996 MAR p. 668, Eff. 3/8/96; AMD, 1998 MAR p. 2560, Eff. 9/25/98.)

8.39.506 INSURANCE FOR OUTFITTERS (1) An outfitter, other than an outfitter licensed on inactive status, shall have liability insurance in effect at all times during the license year, and shall submit proof of such insurance with his or her application for renewal. Minimum amounts of liability insurance shall be \$10,000 for property damage, \$100,000 for personal injury to one person and a total of \$300,000 for personal injury to more than one person. (History: Sec. 37-47-201, MCA; IMP, Sec. 37-47-201, MCA; NEW, 1996 MAR p. 668, Eff. 3/8/96.)

8.39.507 OUTFITTER ACTING AS GUIDE (1) Any person holding a current and valid outfitter's license may act as a guide without a guide's license if:

(a) he or she possesses the qualifications of a guide under these rules;

(b) they work for only one outfitter at any given time; and

(c) they act as a guide only within the services and area of operation of this particular outfitter. (History: Sec. 37-47-201, MCA; IMP, Sec. 37-47-301, 37-47-302, 37-47-303, MCA; NEW, 1996 MAR p. 668, Eff. 3/8/96; AMD, 2000 MAR p. 730, Eff. 3/17/00.)

8.39.508 LICENSURE--RENEWAL (1) License renewal applications for outfitters, guides and professional guides shall be made on forms provided by the board and shall be accompanied by:

(a) the required fee (outfitters, guides and professional guides);

(b) a signed statement verifying that the licensee has current first aid training and is able to produce a current first aid card upon request;

(c) a copy of the licensee's current insurance certificate (outfitters only);

(d) complete client report logs (outfitters only); and

(e) fishing and/or hunting statistical outfitter use level sheets, depending on the services provided by the outfitter in the preceding license year (outfitter only).

(2) If an outfitter, guide or professional guide does not submit a completed application with the required fee in accordance with (1) on or before December 31 of each license year, he or she shall immediately cease practice until a renewal application is submitted and approved by the board.

(3) Upon submission of a completed application for late renewal, payment of a renewal fee in accordance with (1) and

late fee, an outfitter may renew his or her license until April 1 of the new license year. An outfitter license for which a renewal application has not been filed on or before April 1 of the new license year may not be renewed. The individual previously holding such license shall thereafter be treated as a new applicant for purposes of establishing the qualifications for licensure and payment of licensing fees. (History: Sec. 37-1-131, 37-47-201, MCA; IMP, Sec. 37-47-201, 37-47-302, 37-47-303, 37-47-304, 37-47-306, 37-47-307, 37-47-312, MCA; NEW, 1988 MAR p. 1666, Eff. 7/29/88; AMD, 1992 MAR p. 2376, Eff. 10/30/92; AMD, 1996 MAR p. 668, Eff. 3/8/96; AMD, 1999 MAR p. 809, Eff. 4/23/99; AMD, 2000 MAR p. 730, Eff. 3/17/00.)

8.39.509 LICENSURE--AMENDMENT TO OUTFITTER LICENSE is hereby repealed. (History: Sec. 37-1-131, 37-47-201, MCA; IMP, Sec. 37-47-201, MCA; NEW, 1988 MAR p. 1666, Eff. 7/29/88; REP, 1996 MAR p. 668, Eff. 3/8/96.)

8.39.510 LICENSURE--AMENDMENT TO OPERATIONS PLAN

(1) An outfitter may apply for an amendment to his or her operations plan by stating in writing his or her proposed changes and submitting it to the board. All amendments will be considered by the board using the same criteria as new applicants, including, if an outfitter is applying to add hunting, fishing, watercraft used for fishing or hunting, upland game bird, waterfowl, turkey or horse use to his or her operations plan, being required to take those parts of the outfitter examination that apply to the proposed amendment. (History: Sec. 37-1-131, 37-47-201, MCA; IMP, Sec. 37-47-201, MCA; NEW, 1988 MAR p. 1666, Eff. 7/29/88; AMD, 2000 MAR p. 730, Eff. 3/17/00.)

8.39.511 TRANSFER OF LICENSE OF DECEASED OUTFITTER is hereby repealed. (History: Sec. 37-1-131, 37-47-201, MCA; IMP, Sec. 37-47-310, MCA; NEW, 1992 MAR p. 2376, Eff. 10/30/92; REP, 1996 MAR p. 668, Eff. 3/8/96.)

8.39.512 LICENSURE - INACTIVE (1) An outfitter may submit a written request to have his or her license placed on inactive status at the time of renewal. Such request must be submitted with a completed application for renewal and renewal fee.

(2) An outfitter may have his license placed on inactive status for a period not exceeding the remainder of the license year in which the request is made, and may not remain inactive for more than one consecutive licensure year without approval of the board on an annual basis.

(3) Outfitters whose licenses are inactive more than three years and who choose to become active must take the parts of the outfitter test related to outfitter laws and rules and fish and game laws and rules. An inactive outfitter who wishes to reactivate his or her license must update their operation plan.

(4) Outfitters on inactive status may not book or serve clients, and are subject to all requirements applicable to outfitters licensed on active status, other than those relating

to insurance and current basic first aid card.

(5) An inactive outfitter who wishes to reactivate his or her license and has not previously established net client hunter use shall establish net client hunter use pursuant to 37-47-201(5)(d), MCA. (History: Sec. 37-1-319, MCA; IMP, Sec. 37-1-319, MCA; NEW, 1996 MAR p. 668, Eff. 3/8/96; AMD, 1997 MAR p. 1178, Eff. 7/8/97; AMD, 2000 MAR p. 730, Eff. 3/17/00.)

8.39.513 SALE AND PURCHASE OF AN OUTFITTING OPERATION

(1) The board will evaluate outfitter applications involving the sale of an existing outfitting operation utilizing information pertaining to experience and training relative to outfitter activities.

(2) The applicant purchasing the business must submit a signed sales agreement setting forth the following:

(a) name of seller and purchaser;

(b) a general description of the transaction (stock purchase, merger, etc.);

(c) a list of the equipment and livestock which is included as part of the sale;

(d) a legal description of all lands involved in the sale, including copies of signed land use approval forms (L-1 forms); and

(e) a statement relative to whether the seller will surrender or retain the outfitter license, or place the license on inactive status.

(3) The board may waive 50 days of experience for an applicant purchasing an existing outfitter operation provided that:

(a) the applicant submits and receives pre-approval from the board for a plan documenting how and in what capacity the applicant will work with the licensed outfitter from whom the business was obtained;

(b) the applicant has entered into a sales agreement with the selling outfitter for the purchase of the operation and the sales agreement provides supervision of the applicant during the 12-month period by the selling outfitter; and

(c) the business has a current, approved operations plan on file with the board.

(4) The purchaser must provide a current list of all clients booked by seller and a written description of how such reservations will be transferred including, but not limited to, transfer of outfitter sponsored licensees, refunds of deposits and notification of the sale of clients.

(5) In instances where the license of seller is to be transferred to the purchaser, the sales agreement must provide that the effective date of the transfer is midnight, December 31, as no license may be transferred during the licensure year. (History: Sec. 37-47-201, MCA; IMP, Sec. 37-47-201, MCA; NEW, 2000 MAR p. 730, Eff. 3/17/00.)

8.39.514 LICENSURE - GUIDE OR PROFESSIONAL GUIDE LICENSE

(1) An applicant may apply for a guide or professional guide license on forms provided by the board, and accompanied by the required fee. The application must include a signature of the endorsing outfitter, confirming that, to the knowledge

of the outfitter, the guide or professional guide meets all the qualifications of a guide or professional guide.

(2) A new, first time applicant who has not previously been licensed with the Montana board of outfitters must submit proof of current basic first aid certification no later than 90 days after the date of application.

(3) A new applicant who has previously been licensed with the Montana board of outfitters must submit proof of current basic first aid certification with his or her application.

(4) When issued, the license shall be mailed to the outfitter retaining or employing the guide or professional guide. Thereafter, each outfitter who uses the services of the guide during the license year shall sign the guide's license, and, following completion of the guide's service on behalf of the outfitter, shall specify dates on which the guide or professional guide provided service for the outfitter.

(5) An outfitter may employ a guide for 10 days or for one excursion, whichever is less, using a one-time temporary guide license on a form provided by the board. This guide will be defined as a first-time guide.

(a) The outfitter must certify on the form that the guide is competent to provide guiding services in the area in which the guide will operate and in the activity in which the guide will engage.

(b) Temporary guide forms will be provided to each outfitter annually. The board will permit the outfitter to use one temporary guide license per licensure period, unless under state or federal emergency, the number of temporary guide licenses may be increased to a number determined by the board.

An outfitter is prohibited from sharing temporary guide licenses with another outfitter.

(c) The sponsoring outfitter shall designate the name of the temporary guide on the outfitter's log along with the clients guided and the dates during which the guide was employed.

(d) If this temporary guide wishes to have a permanent license, a complete application must be received in the board office within 10 days of receiving a temporary permit. In this instance, the temporary permit will remain in effect until the guide receives a permanent license and will be allowed to perform services during the interim period. (History: Sec. 37-1-131, 37-47-201, MCA; IMP, Sec. 37-47-201, 37-47-301, 37-47-307, MCA; NEW, 1988 MAR p. 1666, Eff. 7/29/88; AMD, 1996 MAR p. 668, Eff. 3/8/96; AMD, 1998 MAR p. 2560, Eff. 9/25/98; AMD, 1999 MAR p. 809, Eff. 4/23/99; AMD, 2000 MAR p. 730, Eff. 3/17/00; EMERG, AMD, 2001 MAR p. 843, Eff. 5/25/01.)

8.39.515 LICENSURE - GUIDE OR PROFESSIONAL GUIDE

QUALIFICATIONS (1) In addition to the requirements contained in 37-47-303, MCA, for guide or professional guide's qualifications, an applicant for a guide or professional guide license shall have:

(a) not less than one season of experience of hunting or fishing for the type of game for which the applicant will guide or have worked for the outfitter that signs the license for a period of at least six weeks and in the area to be guided in,

or have successfully completed a school licensed by a state, approved by the board, and that trains persons to be a guide or professional guide;

(b) knowledge of hunting and fishing techniques to provide the particular services contracted to the client by the endorsing outfitter; and

(c) knowledge of equipment, terrain and hazards to competently provide a safe experience for those persons he or she guides.

(2) An applicant for a professional guide's license shall meet the following qualifications in addition to the qualifications in (1):

(a) have held a guide license in the state of Montana for at least three years;

(b) have not had disciplinary action taken against the applicant's guide license in this or any other state; and

(c) have spent at least 300 days guiding clients in the field as evidenced by:

(i) employment records, or

(ii) client report logs of endorsing outfitters.

(d) The applicant shall produce, on a form provided by the board, character references from:

(i) three clients the guide has guided,

(ii) one licensed outfitter, and

(iii) one licensed guide.

(e) A professional guide shall present evidence of 15 hours of training or education obtained in the year previous to application in addition to guiding experience, in topics relevant to guiding as approved by the board.

(3) An outfitter whose license is currently suspended or revoked shall not be qualified for a guide or professional guide license. (History: Sec. 37-1-131, 37-47-101, 37-47-201, MCA; IMP, Sec. 37-47-101, 37-47-201, 37-47-303, 37-47-307, MCA; NEW, 1988 MAR p. 1666, Eff. 7/29/88; AMD, 1996 MAR p. 668, Eff. 3/8/96; AMD, 1998 MAR p. 2560, Eff. 9/25/98.)

Rules 8.39.516 and 8.39.517 reserved

8.39.518 LICENSURE--FEES FOR OUTFITTER, OPERATIONS PLAN, NET CLIENT HUNTING USE (N.C.H.U.), AND GUIDE OR PROFESSIONAL GUIDE (1) Fees for outfitters, operations plan, guide or professional guides shall be as set forth below. The following fees are nonrefundable.

(a) New resident outfitter application and license. This fee includes the following costs, but does not include fees related to operations plan. \$1,000

(i) application processing 300

(ii) examination 100

(iii) investigation 300

(iv) resident license 300

(b) Application for amendment to resident outfitter license. This fee includes the following costs: 400

(i) application processing 300

(ii) examination 100

(c) Renewal of outfitter license	
(i) resident outfitter annual license	300
(ii) late renewal penalty	
applications postmarked Jan. 1 - Jan. 31	100
applications postmarked after Feb. 1	300
(iii) resident outfitter inactive status	150
(d) New operations plan	
(i) review and processing	125
(ii) equipment inspection	300
(e) Fee per hunting client served per year	2
(f) Annual fee for each additional hunting	5,000
camp added after January 1, 1999 and located	
beyond a 100-mile radius of the outfitter's	
base of operations and that is in an	
administrative region other than the region	
containing the outfitter's base of operations	
(g) Amendments to operations plan	2,000
proposing an increase in net client hunting use	
(h) Fee for each new client added to	
operations plan by N.C.H.U. expansion request	500
(i) Resident guide or resident professional	
guide license	
(i) resident guide renewal	100
(ii) resident original guide license	100
(iii) resident temporary guide license	100
(j) Nonresident outfitters, guides or professional guides	
will pay the fee their residency state charges for the similar	
license if in excess of the amount established by the board for	
the license. Otherwise they will pay the Montana resident fee.	
(History: Sec. 37-1-131, 37-1-134, 37-47-201, 37-47-303, 37-	
47-304, 37-47-306, MCA; <u>IMP</u> , Sec. 37-1-134, 37-47-304, 37-47-	
306, 37-47-307, 37-47-308, MCA; <u>NEW</u> , 1988 MAR p. 1666, Eff.	
7/29/88; <u>AMD</u> , 1994 MAR p. 2823, Eff. 10/28/94; <u>AMD</u> , 1995 MAR p.	
2388, Eff. 11/10/95; <u>AMD</u> , 1996 MAR p. 909, Eff. 3/8/96; <u>AMD</u> ,	
1997 MAR p. 1178, Eff. 7/8/97; <u>AMD</u> , 1998 MAR p. 2560, Eff.	
9/25/98; <u>AMD</u> , 2000 MAR p. 730, Eff. 3/17/00; <u>AMD</u> , 2001 MAR p.	
843, Eff. 5/25/01.)	

Sub-Chapter 6 reserved

Sub-Chapter 7

Substantive Rules--Conduct

8.39.701 CONDUCT--STANDARDS OF OUTFITTER AND PROFESSIONAL GUIDE is hereby repealed. (History: Sec. 37-1-131, 37-47-201, MCA; IMP, Sec. 37-47-201, 37-47-301, 37-47-302, 37-47-341, 37-47-402, 37-47-404, MCA; NEW, 1988 MAR p. 1666, Eff. 7/29/88; AMD, 1989 MAR p. 1192, Eff. 8/18/89; AMD, 1991 MAR p. 999, Eff. 6/28/91; AMD, 1994 MAR p. 155, Eff. 1/28/94; REP, 1996 MAR p. 668, Eff. 3/8/96.)

8.39.702 CONDUCT--ADDITIONAL REQUIRED OUTFITTER PROCEDURES is hereby repealed. (History: Sec. 37-1-131, 37-47-201, MCA; IMP, Sec. 37-47-201, 37-47-301, MCA; NEW, 1988 MAR p. 1666, Eff. 7/29/88; AMD, 1989 MAR p. 1192, Eff. 8/18/89;

AMD, 1994 MAR p. 155, Eff. 1/28/94; REP, 1996 MAR p. 668, Eff. 3/8/96.)

8.39.703 OUTFITTER RECORDS (1) Outfitters shall maintain current, true, complete and accurate records at all times, submit the records to the board with application to renew license and make the records available at all times at the outfitter's main base camp or business office to enforcement or investigative personnel authorized or appointed by the board.

(2) Outfitter records shall be maintained on forms prescribed by the board and shall contain information as required by the board. The information required shall include, but not be limited to:

- (a) names and addresses of clients;
- (b) dates of service to clients;
- (c) game animals, except fish, taken by clients;
- (d) clients' hunting and fishing license numbers;
- (e) districts hunted and rivers and lakes fished by clients;
- (f) the actual leased acreage actively used by clients during that year;
- (g) the actual leased acreage unused by clients during that year; and
- (h) tally sheets reflecting the number of clients served per N.C.H.U. category as defined in ARM 8.39.804(2)(a), (b), and (c), each year shall be maintained and submitted to the board during the renewal of the license or when the outfitter's license is lapsed.

(3) Submitted outfitter client records shall be maintained as confidential information and shall not be released to any person or organization without approval of the board, written permission of the outfitter, subpoena or order of a court, or written request of a state or federal agency for the purpose of furthering investigation of criminal activities.

(History: Sec. 37-1-131, 37-47-201, MCA; IMP, Sec. 37-47-301, MCA; NEW, 1988 MAR p. 1666, Eff. 7/29/88; AMD, 1989 MAR p. 1192, Eff. 8/18/89; AMD, 2000 MAR p. 730, Eff. 3/17/00.)

8.39.704 SAFETY PROVISIONS (1) Outfitters are required to hold a current basic first aid card at all times licensed.

(2) Except for the one-time, 90-day exemption provided for new, first-time applicants and temporary guide licenses in ARM 8.39.514(2), guides and professional guides are required to hold a current basic first aid card at all times licensed.

(3) Each watercraft, vessel, vehicle, primary, secondary and temporary base of operation with guests present will possess a serviceable basic first aid kit.

(4) Each watercraft or vessel shall contain a serviceable U.S. coast guard approved personal floatation device for each person on board. Children under 12 are required to wear a personal floatation device.

(5) All watercraft or vessels are required to carry on board a supplementary means of power, such as an extra motor or extra oar that will adequately motivate the craft. (History: Sec. 37-47-201, MCA; IMP, Sec. 37-47-201, MCA; NEW, 1992 MAR p.

439, Eff. 3/13/92; AMD, 1996 MAR p. 668, Eff. 3/8/96; AMD, 1999 MAR p. 809, Eff. 4/23/99; AMD, 2000 MAR p. 730, Eff. 3/17/00.)

8.39.705 CONDUCT--OUTFITTER RESPONSIBILITY FOR PROFESSIONAL GUIDE is hereby repealed. (History: Sec. 37-1-131, 37-47-201, MCA; IMP, Sec. 37-47-201, 37-47-402, 37-47-404, MCA; NEW, 1988 MAR p. 1666, Eff. 7/29/88; REP, 1996 MAR p. 668, Eff. 3/8/96.)

8.39.706 CONDUCT--ADDITIONAL RESTRICTIONS ON PROFESSIONAL GUIDE is hereby repealed. (History: Sec. 37-1-131, 37-47-201, MCA; IMP, Sec. 37-47-101, 37-47-201, 37-47-344, MCA; NEW, 1988 MAR p. 1666, Eff. 7/29/88; REP, 1996 MAR p. 668, Eff. 3/8/96.)

8.39.707 CONDUCT--REVOCATION OR SUSPENSION OF OUTFITTER OR PROFESSIONAL GUIDE LICENSE is hereby repealed. (History: Sec. 37-1-131, 37-1-136, 37-47-201, MCA; IMP, Sec. 37-47-201, 37-47-302, 37-47-341, 37-47-342, MCA; NEW, 1988 MAR p. 1666, Eff. 7/29/88; REP, 1996 MAR p. 668, Eff. 3/8/96.)

8.39.708 MISCONDUCT is hereby repealed. (History: Sec. 37-47-201, MCA; IMP, Sec. 37-47-341, MCA; NEW, 1994 MAR p. 155, Eff. 1/28/94; AMD, 1994 MAR p. 2823, Eff. 10/28/94; REP, 1996 MAR p. 668, Eff. 3/8/96.)

8.39.709 STANDARDS FOR OUTFITTERS, GUIDES AND PROFESSIONAL GUIDES - UNPROFESSIONAL CONDUCT AND MISCONDUCT

(1) A violation of (1)(a) through (p) or (3)(a) through (o) by an outfitter, or (2)(a) through (d) or (3)(a) through (o) by a guide or professional guide is misconduct, specified as a basis for disciplinary action under 37-47-341, MCA. Such violation is also determined by the board to be unprofessional conduct, as provided in 37-1-319, MCA, specified as a ground for disciplinary action under 37-1-312, MCA. A violation of this rule may result in any sanction provided by 37-1-312 or 37-47-341, MCA. An outfitter shall:

(a) not violate any law, rule, or policy of the department of fish, wildlife and parks concerning the certification of nonresidents for procuring hunting licenses;

(b) not conduct any services or allow services to be conducted by a supervised guide or professional guide on private or public land, except legal transportation across such lands, without first having obtained written permission from the landowner or written authorization from the agency administering public land, unless the landowner or agency does not require such permission;

(c) not provide services or allow services to be conducted by a supervised guide or professional guide to clients outside the boundaries of his or her approved operations plan;

(d) not endorse a guide or professional guide license until the outfitter has made reasonable inquiry and determined that the guide or professional guide is qualified for licensure;

(e) not interfere, by solicitation or otherwise, with a

contract between another outfitter and client, including certifications for game license or permits, when it is known or reasonably should be known that a contract to provide services exists between that other outfitter and a client;

(f) furnish each client with a current and complete rate schedule, which shall include all charges, a deposit policy, and deposit refund policy, all in writing, for services offered;

(g) when offering services to a nonresident hunting client, shall specify, in writing, the monetary consequences with respect to the prospective client's deposit, of failure by the prospective client to draw a license required to participate in the service offered;

(h) not change the rates and/or policies from those published without the written consent of the client after the outfitter receives and accepts the deposit from the client;

(i) be responsible for making all agreements with clients concerning monetary consideration or services offered;

(j) personally collect, or designate an agent to collect, all fees from clients. The outfitter is solely responsible for complying with his or her deposit and deposit refund policy;

(k) maintain current, true, complete and accurate records at all times;

(l) make all client records available at the outfitter's main base camp or business office to enforcement or investigative personnel authorized or appointed by the board;

(m) obtain and maintain a reasonable degree of supervision over the guide or professional guide to insure that the services offered are being provided in accordance with the laws and rules, with particular regard to those laws and rules pertaining to the health, safety and welfare of the participants, the public and landowners;

(n) not employ or retain a new, first-time licensed guide or professional guide after the 90th day following the date of the guide's or professional guide's application for licensure without first confirming that the guide or professional guide has current basic first aid certification;

(o) not employ or retain a previously licensed guide or professional guide without first confirming that the guide or professional guide has current basic first aid; or

(p) properly endorse an application for a guide or professional guide license in accordance with the laws and rules of the board.

(2) A guide and professional guide shall:

(a) not advertise outfitting services, unless the guide or professional guide owns an outfitting business. In cases where the guide or professional guide owns the outfitting business, he or she must identify the endorsing and supervising outfitter in any advertisement for the business;

(b) not make agreements with clients concerning monetary consideration or services offered, or collect fees from clients, without the express consent of the supervising outfitter;

(c) not provide services to clients who have not been specifically referred to the guide or professional guide from the endorsing outfitter;

(d) when advertising guiding services, shall clearly designate the license number of the guide, and the name, address and telephone number of the endorsing outfitter.

(3) All licensees shall:

(a) make every effort to operate with respect for the rights of others, private and public property, and provide for the health, safety and well-being of their clients, employees and the general public;

(b) provide services on public land in a manner such that they do not interfere with the general public access to public land or waterways or access to wildlife on public land;

(c) provide their services in such a manner as not to be detrimental to the wildlife or the environment where they operate;

(d) report to the board office, at their earliest opportunity, any violation of fish and game laws or outfitter and guide laws of which they have knowledge;

(e) not use any narcotic drug, alcohol or any other drug or substance, to the extent that the use impairs the user physically or mentally, while engaged by a client;

(f) not charge any fee for certifying or aiding or assisting any nonresident in procuring or attempting to procure a hunting license;

(g) not conduct a licensed function that is not authorized and listed on his or her license;

(h) not harass, assault or abuse clients, employees, outfitters, guides or professional guides or members of the general public, verbally or otherwise;

(i) not abuse livestock;

(j) produce their current license at the request of a representative of the board;

(k) clearly designate who the responsible outfitter is in any advertisement of outfitting, guiding or professional guiding services;

(l) carry his or her current license at all times when providing services;

(m) not have hunting or fishing privileges suspended, revoked, placed on probation or voluntarily surrendered in the state of Montana or any other jurisdiction; or

(n) not act beyond the scope of activities for which the individual is licensed. (History: Sec. 37-1-319, 37-47-201, 37-47-341, MCA; IMP, Sec. 37-1-312, 37-47-341, MCA; NEW, 1996 MAR p. 668, Eff. 3/8/96; AMD, 1999 MAR p. 809, Eff. 4/23/99; AMD, 2000 MAR p. 730, Eff. 3/17/00.)

Sub-Chapter 8

Moratorium Rules

8.39.801 PURPOSE (1) The purpose of the rules under this subchapter is to implement the intent of the Montana legislature, as expressed in 37-47-315 and 37-47-201(5)(d), MCA from the 1995 Montana legislative session, to "encourage the continuance of a viable outfitting industry", to "protect the hunting resource, public health, public safety, and public welfare", and to reduce "new hunting uses of areas by

outfitters when the new uses will cause undue conflict with existing hunting uses of the area." (History: Sec. 37-47-201, MCA; IMP, Sec. 37-47-201, 37-47-315, MCA; NEW, 1995 MAR p. 2388, Eff. 11/10/95.)

8.39.802 MORATORIUM (1) The number of outfitting licenses for operations involving hunting use may not exceed 543.

(2) Applications for licensure as an outfitter with an operations plan involving hunting use will be determined, once all qualifications are accepted by the board, if and when an existing license lapses, or is surrendered, revoked or otherwise terminated.

(3) Applications will be considered completed, and will be added to a waiting list for available licenses, by categories identified in ARM 8.39.803, only after the following conditions have been met:

(a) the application has been submitted with the required fee;

(b) the board has reviewed the applicant's qualifications and determined that the applicant is eligible for licensure with respect to the applicant's qualifications; and

(c) the review process under rules adopted pursuant to 37-47-201(5)(d), MCA, if applicable, has been completed by the board, with a finding that the proposed operations plan is eligible for licensure.

(4) An applicant who does not meet the experience requirements and other qualifications for licensure will not be added to the waiting list for available licenses. An applicant whose proposed operation plan has been disapproved by the board shall not be added to the waiting list for available licenses.

(5) Once added to the category-specific waiting list, applications shall be processed from this list according to conditions and priorities identified in ARM 8.39.803.

(History: Sec. 37-47-201, MCA; IMP, Sec. 37-47-201, 37-47-315, MCA; NEW, 1996 MAR p. 765, Eff. 11/10/95; AMD, 2000 MAR p. 730, Eff. 3/17/00.)

8.39.803 APPLICANT CATEGORIES - CONDITIONS AND PRIORITIES

(1) Consideration of applications for available licenses shall be subject to the conditions and priorities set forth in the categories below. Applications within the same category shall be prioritized on the waiting list according to the date on which the application is placed on the waiting list.

(a) Applications for licensure involving the corresponding surrender of an existing outfitter's license shall be approved without regard to the category-specific waiting list and without a review of the operation plan under 37-47-201(5)(d), MCA, provided that:

(i) the applicant is otherwise qualified for a license;

(ii) an existing outfitter surrenders his license on or before the date of licensure for the applicant and does so specifically for the benefit of the applicant; and

(iii) the number of clients proposed under the applicant's operations plan replaces, but does not exceed, the number of clients surrendered by the outfitter or outfitters

transferring such use for the benefit of the applicant under an approved operations plan.

(b) Applications for licensure involving the proposed purchase of a portion of an outfitter's operations plan that is documented to have once existed as the entire operation of a separate licensed outfitter, shall be granted first priority under (b) through (d), provided that:

(i) the applicant is otherwise qualified for a license; and

(ii) the number of clients under the applicant's operations plan replaces, but does not exceed, the number of clients surrendered by the outfitter transferring such use under an approved operations plan.

(c) Available licenses not taken by applicants under (b) shall then be made available to applicants whose applications for licensure involve the proposed purchase of a portion of an existing outfitter's operations plan by the applicant that does not qualify for (b). Such applications shall be granted second priority under categories (b) through (d), provided that:

(i) the applicant is otherwise qualified for a license; and

(ii) the number of clients under the applicant's operations plan replaces, but does not exceed, the number of clients surrendered by the outfitter transferring such use under an approved operations plan.

(d) Available licenses not taken by applicants under (b) and (c) shall then be made available to applicants proposing new use. Applications for licensure involving new proposed use shall be considered under 37-47-201(5)(d), MCA, and rules adopted pursuant thereto. Such applications shall be granted third priority under categories (b) through (d), provided that:

(i) the board's consideration of the application under 37-47-201(5)(d), MCA, results in a final determination by the board that the new operations plan will not cause an undue conflict with existing hunting use of the proposed area.

(History: Sec. 37-47-201, MCA; IMP, Sec. 37-47-201, 37-47-315, MCA; NEW, 1996 MAR p. 765, Eff. 12/22/95.)

8.39.804 DETERMINATION OF NET CLIENT HUNTER USE AND REVIEW OF NEW OPERATIONS PLAN AND PROPOSED EXPANSION OF NET CLIENT HUNTER USE UNDER EXISTING AND NEW OPERATIONS PLAN(S)

(1) An outfitter shall not expand net client hunter use without first applying for and receiving approval from the board for such expansion.

(2) Except as provided in (4) and (5), net client hunter use for outfitters shall be determined by taking the highest total number of hunting clients served by the outfitter and any guides working under the endorsement of the outfitter in a year during which the outfitter was licensed in the state of Montana, with a categorical breakdown of hunting clients served using licenses issued no later than December 31, 1995 as follows:

(a) category 1, consisting of nonresident deer or elk clients holding B-10 or B-11 licenses ("big game outfitter sponsored");

(b) category 2, consisting of all non-outfitter sponsored big game species clients; and

(c) category 3, consisting of upland game bird and migratory game bird (waterfowl) clients ("non-big game").

(3) The outfitter shall designate net client hunter use for each of the categories, under affirmation by oath on a form provided by the board. The outfitter shall specify the year or years from which the use is designated. If use is designated from any year prior to 1988, the outfitter claiming such use must submit documentation of such use, which shall be subject to approval of the board. The use designated by the outfitter shall be subject to random audit by the board's investigators.

Submission of false information regarding net client hunter use is specifically designated as unprofessional conduct, and may result in revocation of the outfitter's license.

(4) When an existing outfitter purchases an outfitting business or any portion thereof in the state of Montana and makes application to the board for an expansion, the outfitter may designate net client hunter use in an amount equal to his or her historical use, plus the net client hunter use transferred from the selling outfitter to the applicant outfitter. For proposed new use by a newly licensed outfitter, net client hunter use shall be determined by the board as part of its order under this rule.

(5) In cases where a federal agency limits use on federal lands, hunter use of the outfitter providing authorized services on such lands shall be regulated by such federal agency. In all other cases, net client hunter use on federal lands shall be determined under either (2), (3) or (4) as applicable.

(6) Net client hunter use of each outfitter must be specific as to the category designated by the outfitter (big game outfitter sponsored, big game non-outfitter sponsored and non-big game). An outfitter may, in any one year which the outfitter has un-served category 1 clients (outfitter sponsored), serve the un-served clients under category 2. An outfitter shall not exchange, trade or substitute between any other category of net client use.

(7) An application for proposed expansion in net client hunter use under an existing operations plan, and applications by license applicants proposing new operations plans involving hunting use, shall be made on forms provided by the board. The board shall maintain a copy of the proposal in the board's office.

(8) The board shall issue an order, in accordance with the provisions set forth in 37-47-316 and 37-47-317, MCA, supported by findings of fact and conclusions of law, either granting, denying or modifying the proposal. A copy of the order shall be provided by regular mail to the individual submitting the request and any persons, associations or agencies submitting comments.

(9) Any party aggrieved by the board's decision may appeal such decision to the district court in the county affected by the proposal, within 30 days following the date of service by regular mail of the final order. (History: Sec. 37-1-131, 37-47-201, MCA; IMP, Sec. 37-1-131, 37-47-201, 37-47-

316, MCA; NEW, 1996 MAR p. 145, Eff. 3/15/96; AMD, 1998 MAR p. 2267, Eff. 8/28/98; AMD, 2000 MAR p. 730, Eff. 3/17/00; AMD, 2003 MAR p. 1193, Eff. 6/13/03.)

8.39.805 EFFECT OF FEE FOR EXPANSION OF NET CLIENT HUNTER USE (1) Upon approval by the board of an expansion on net client hunter use, the expansion will not become effective until the date payment is received pursuant to the provisions of 37-47-318, MCA. (History: Sec. 37-1-131, 37-47-201, MCA; IMP, Sec. 37-1-131, 37-47-201, 37-47-316, MCA; NEW, 2003 MAR p. 1193, Eff. 6/13/03.)